

## REMARKS

Claims 1, 3-5, 7-10, 12-46 and 48-114 are pending in the present application. In the above amendments, Claim 91 has been amended.

The 5/18/2005 Office Action rejected claim 91 under 35 U.S.C. § 35 U.S.C. 102(e) as being anticipated Bremer et al.

Amendments to Claim 91 are supported by paragraph 1039 on pp. 9-10 of the original specification. No new matter was added.

Applicants thank the Examiner for allowing Claims 1, 3-5, 7-10, 12-26, 46, 48-71 and 109-114 and indicating Claim 99 would be allowable if rewritten in independent form.

Bremer discloses an “xDSL communication system” (Abstract). Bremer does not disclose or teach a “wireless reverse link between the apparatus and a base station” or “wirelessly transmitting data ... to the base station,” as recited in Claim 91.

Also, Bremer discloses a “transmitting modem 12” and a separate “receiving modem 14,” as shown in Fig. 2. Bremer does not disclose or teach a single “apparatus” comprising an estimator, a combiner and a processing block, as recited in Claim 91.

In addition, Bremer does not disclose a “combiner ... configured to modify the quality metric by a transmission power margin,” as recited in Claim 91. The Office Action cites col. 6, lines 1-43 and col. 8, lines 54-57, but these lines only describe “increasing” or “decreas[ing]” a “transmission power.” These lines do not disclose or teach a “combiner ... configured to modify the quality metric by a transmission power margin,” as recited in Claim 91.

In addition, Bremer does not disclose a “modified quality metric” and “a processing block ... configured to determine a maximum rate of wirelessly transmitting data in accordance with a modified quality metric to the base station,” as recited in Claim 91. Bremer only discloses a “calculated S/N ratio” and a “minimum required S/N ratio retrieved from database 33” (col. 6, lines 1-3), which does not teach a “modified quality metric” recited in Claim 91.

For at least these reasons, Claim 91 should be allowable.

Claims 92-99 should be allowable for being dependent on Claim 91.

For Claims 96-98, Black does not qualify as 103/102(a), 103/102(b) or 103/102(e) prior art because Black was not published (June 19, 2003) or patented (July 15, 2003) before the invention of the present application, which was filed on March 4, 2002. Also, Black is owned by the same owner, Qualcomm, as the present application and falls under 103(c). Thus, Claims 96-98 should be allowable.

Specification

Applicants provide herewith amendments to the specification. The amendments to the specification are made by presenting marked up replacement paragraphs which identify changes made relative to the immediate prior version.

The changes made are primarily typographical or grammatical in nature, or involve minor clarifications of awkward wordings.

Applicants believe these changes add no new matter to the application and are fully supported by the original disclosure.

**REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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